

1 LEWIS BRISBOIS BISGAARD & SMITH LLP
STEPHEN H. TURNER, SB# 89627

2 E-Mail: Stephen.Turner@lewisbrisbois.com

LARISSA G. NEFULDA, SB# 201903

3 E-Mail: Larissa.Nefulda@lewisbrisbois.com

633 West 5th Street, Ste. 4000

4 Los Angeles, CA 90071

Telephone: 213.250.1800

5 Facsimile: 213.250.7900

6 Attorneys for Defendants
GOLDSMITH & HULL, APC and
7 WILLIAM I. GOLDSMITH

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 POVILAS KARCAUSKAS, on behalf
12 of himself and all others similarly
situated,

13 Plaintiff,

14 vs.

15 REGRESO FINANCIAL SERVICES
16 LLC; GOLDSMITH & HULL, APC;
17 WILLIAM I. GOLDSMITH; and
DOES 1 to 10;

18 Defendants.

CASE NO. 2:15-cv-09225-FMO-RAOx

**DEFENDANTS GOLDSMITH &
HULL, APC AND WILLIAM I.
GOLDSMITH'S EX PARTE
APPLICATION TO EXTEND THE
TIME PROVIDED BY LOCAL
RULE 37-2.2 TO PROVIDE
DEFENDANTS' PORTION OF THE
STIPULATION BY ONE WEEK**

Plaintiff Opposes This Application

[Filed Concurrently with Declarations
of Stephen H. Turner, Larissa G.
Nefulda and William I. Goldsmith]

**DATE: September 15, 2016
COURTROOM: F (Spring Street)**

Trial Date: March 21, 2017

[Hon. Fernando M. Olguin]

25
26 **I. INTRODUCTION**

27 In this ex parte application Defendants Goldsmith & Hull and William I

28 4819-1843-5896.1

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DEFENDANTS GOLDSMITH & HULL, APC AND WILLIAM I. GOLDSMITH'S EX PARTE APPLICATION TO
EXTEND THE TIME PROVIDED BY LOCAL RULE 37-2.2 TO PROVIDE DEFENDANTS' PORTION OF THE
STIPULATION BY ONE WEEK

1 Goldsmith (“Defendants”) seek a one-week extension of time within which to
 2 provide their portions of two joint statements to be submitted as part of Plaintiff’s
 3 motions to seek further discovery responses. They do so because, for the reasons set
 4 forth hereafter, they and their counsel are unable to submit their portions within the
 5 seven days allowed by the Local Rules of Court 37-2.2 and Plaintiff’s counsel,
 6 Robert Stempler, refused to grant Defendants one week of additional time.

7 On September 13, 2016, Plaintiff’s counsel, Robert Stempler, sent counsel for
 8 Defendants three documents: Plaintiff’s portions of two statements and an appendix
 9 of exhibits. The three documents total 256 pages. The response is currently due on
 10 September 20, 2016. For the reasons set forth hereafter, Defendants and their
 11 counsel are unable to review the three lengthy documents and complete their portion
 12 of the joint statements by September 20, 2016. Since Plaintiff would not be
 13 prejudiced by granting Defendants a one-week extension of time to respond¹,
 14 Defendants’ counsel sent an email to Plaintiff’s counsel to request the extension.
 15 Counsel for Plaintiff, Robert Stempler, responded by stating “I am not able to grant
 16 your request for an extension to send us the Defendants’ response for the joint
 17 stipulations.” A copy of Mr. Stempler’s email is attached hereto as Exhibit 1 to
 18 Declaration of Larissa G. Nefulda.

19 In compliance with Magistrate Judge Rozella A. Oliver’s requirements,
 20 Defendants’ counsel gave both Robert Stempler and his co-counsel, Rand Bragg,
 21 verbal notice that Defendants are making this application. An email was also sent to
 22 them. Because Mr. Stempler refused to grant a one-week extension and because
 23 Defendants’ counsel have not heard from Plaintiff’s counsel after notice of the ex
 24 parte was given, Defendants assume Plaintiff opposes the application.

25 As set forth in detail hereafter, there are four reasons for the request for a one-
 26 _____

27 ¹ The discovery cut-off is December 7, 2016 and a trial date has not been scheduled.

1 week extension. First, the length of the documents would make it difficult for Defendants to review the documents and complete their portions of the joint statements in a week if these were the best of circumstances. Second, these are not the best of circumstances. Stephen Turner, one of the two attorneys who are representing the Defendants in this matter and is lead counsel, is dealing with both personal and medical issues that take him out of the office and which are distraction.

7 The third reason good cause exists is the other attorney representing the Defendants in this action, Larissa Nefulda, is currently drafting a lengthy Motion for Summary Judgment in a Superior Court action, which is due to be filed on September 16, 2016. The final reason good cause exists is, due to professional obligations, defendant William Goldsmith, whose involvement in the preparation of Defendants' portion of the joint statements is crucial, is unable to devote the time necessary to fully participate as needed.

14 For these reasons, and because Plaintiff will suffer no prejudice, Defendants request an additional week within which to prepare their portions of the joint statements.

18 **II. PLAINTIFF'S PORTION OF THE JOINT STATEMENTS**

19 At 3:30 p.m., on Tuesday, September 13, 2016, Plaintiff's counsel, Robert Stempler, served by email three documents. The first was Plaintiff's portion of a joint stipulation of counsel on Plaintiff Povilas Karcauskas' motion to compel further responses and document production from William I. Goldsmith. This document consists of 63 pages. A copy of this document is attached as Exhibit 2 to Declaration of Larissa G. Nefulda. The second document was Plaintiff's portion of a joint stipulation of counsel on Plaintiff's motion to compel further responses and document production from Goldsmith & Hull. This document is 83 pages. A copy of the document is attached as Exhibit 3 to Declaration of Larissa G. Nefulda. The

1 third document was an appendix of the exhibits Plaintiff is going to attach to a joint
 2 stipulation to a Motion to Compel. This document consists of 110 pages. A copy of
 3 the document is attached as Exhibit 4 to Declaration of Larissa G. Nefulda.

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 5 **III. GOOD CAUSE EXISTS TO GRANT DEFENDANTS' EX PARTE**
 6 **APPLICATION**

7 There are four reasons why good cause exists to grant Defendants' Ex Parte
 8 Application. First, it is unreasonable to expect Defendants to analyze and respond
 9 to three documents, totaling 256 pages in one week. This would be unreasonable if
 10 this was the best of circumstances for Defendants' counsel, and it is not.

11 The second reason is that Stephen Turner is dealing with medical and
 12 personal issues at this time. Although Mr. Turner would have preferred to have not
 13 been forced to disclose his personal and medical circumstances, because it is
 14 imperative for the Defendants that they are able to fully respond to the Plaintiff's
 15 three joint stipulations, he will do so. First, Mr. Turner who has been treated for the
 16 past nine years for a blood disorder, recently was advised that one of the elements in
 17 his blood which is measured on a monthly basis has, suddenly and unexpectedly
 18 moved from the "safe zone" to an unsafe level. This has been both a distraction and
 19 has necessitated that Mr. Turner undergo medical procedures and consult with his
 20 doctors who are adjusting his medication. For example, on September 13th, 2016,
 21 the day Mr. Stempler e mailed the three documents, Mr. Turner underwent a
 22 medical procedure and on September 14 consulted with one of his doctors. On
 23 September 20, 2016 Mr. Turner will undergo an additional procedure.² In addition
 24 _____

25 ² Remarkably, Mr. Stempler is aware that Mr. Turner was dealing with medical
 26 issues. On September 9, 2016, Mr. Turner sent Mr. Stempler an email advising that
 27 he would not be able to respond to certain discovery issues Mr. Stempler had
 28 previously raised by the agreed upon deadline but would, the following week, this
 week, attempt to do so. Despite being aware of Mr. Turner's condition Mr.
 (footnote continued)

1 to this, one of Mr. Turner family members has been recently admitted to hospice and
 2 is approaching death. This too has been a distraction. It is crucial that Mr. Turner,
 3 as the lead attorney in this case, be fully involved in preparing Defendants' portion
 4 of the joint statements.

5 The third reason why good cause exists is that the other attorney that is
 6 defending the defendants, Larissa Nefulda, is preparing a lengthy and complicated
 7 Motion for Summary Judgment in a Los Angeles Superior Court action, *Johannes v.*
 8 *Johannes*, case no. ED060172, which must be filed by this Friday, September 16,
 9 2016.

10 The final reason why good cause exist is that one of the two parties from
 11 which Plaintiff seeks further responses, William Goldsmith, a practicing attorney,
 12 has various professional obligations to which he must attend. It is imperative that
 13 Mr. Goldsmith be fully involved in preparing Defendants' portion of the joint
 14 statements. Thus, additional time is required.

15
 16 **IV. PLAINTIFF WILL SUFFER NO PREJUDICE IF DEFENDANTS' EX**
 17 **PARTE APPLICATION IS GRANTED**

18 The discovery cut off in this case is December 7, 2016. There are no
 19 deadlines until early December. The deadline by which Plaintiff must bring a
 20 motion for class certification is April 20, 2017. Trial has not been scheduled. In
 21 short, Plaintiff will suffer not prejudice whatsoever if Defendants' Ex Parte
 22 Application is granted. On the other hand, Defendants will most definitely suffer
 23 prejudice if it is not.

24 _____
 25 Stempler proceeded to serve the three documents consisting of 256 pages and
 26 declined the request for an additional week in which to prepare Defendants' portion
 27 of the joint statements.

1 **V. CONCLUSION**

2 Defendants and their counsel were startled by Mr. Stempler's refusal to give
 3 Defendants an additional week within which to prepare their portions of the joint
 4 statement. Under the circumstances, it would seem that professional courtesy
 5 mandated that he do so. Having not advised Defendants of the reason for his
 6 decision, Defendants assume he will advise the court. However, regardless of the
 7 reason, good cause exist for this Ex Parte Application to be granted. Defendants
 8 request that the Court do so.

9
 10 DATED: September 15, 2016 LEWIS BRISBOIS BISGAARD & SMITH LLP

11
 12 By: /s/ Larissa G. Nefulda

13 Stephen H. Turner

14 Larissa G. Nefulda

15 Attorneys for Defendants

16 GOLDSMITH & HULL, APC and
 17 WILLIAM I. GOLDSMITH